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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,299	12/08/2000	Nicholas Broeders	CAN168/JTN	2667

7590 07/08/2003

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EXAMINER

LITHGOW, THOMAS M

ART UNIT	PAPER NUMBER
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1724

12

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,299

Applicant(s)

BROEDERS ET AL.

Examiner

Thomas M. Lithgow

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 21-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: *THM-Lithgow*

1. Applicant's election with traverse of group I, claims 1-20 in Paper No. 11 is acknowledged. The traversal is on the ground(s) 1. that there is no serious burden on the office, 2. that prior art applied against the apparatus would be applied against the method, 3. that the apparatus and the process are "one invention", 4. that the search for the apparatus would also involve a search for the method, 5. that different classification is a factor for holding distinctness but no necessarily the determining factor, 6. that the examiner may not rely on separate classification to support an allegation of separate status in the art, 7. that the examiner's assertion that the claimed apparatus is clearly not based upon the recitation of the claims. This is not found persuasive because 1. there is a burden on the Office as searching and examining otherwise distinct inventions of a single application takes away resources the office could apply on the next application, 2. the prior art may or may not be applied against the method claims depending on the scope of the method claims, 3 the separate claim groups are not "one invention" but are "distinct" inventions and are therefore restrictable, 4. the overlapping searches are not required by the Office although the Office would not knowingly ignore a pertinent reference if brought to the Office's attention, 5. different classification can be used to justify a restriction

provided the groupings are also distinct s the present groups are, 6. it is unclear where the authority for the number 6. traversal reason is derived from- please provide a citation if appropriate, 7. the claimed apparatus may be used in food products system or pharmaceutical application in which a light weight material, ie oil and water are separated which does not require grease to be present. The requirement is still deemed proper and is therefore made FINAL.

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8, 18/1, 18/2 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Coyne (US 5637221)- cited by applicant. Coyne discloses an apparatus for separating fats, oils and grease from water by employing a inlet deflector baffle 202, outlet deflector baffle 206, an inclined ramp 186 , with air entraining means 254 or 280 into mixer 114.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Aymong (US 4722800) – cited by applicant. Aymong '800 discloses an apparatus for separating oil from water with an inlet baffle 72, outlet baffle 128 and an inclined ramp 96.
5. Claims 1-8, 10-11, 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Marsh (US 2076380) – cited by applicant. Marsh '380 discloses an oil interceptor which includes an inlet baffle 21, an outlet baffle 38, an inclined ramp 30 and/or 35a.
6. Claims 1-8, 10-11, 14/2, 14/11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by McLeod (US 2102429). McLeod '429 discloses a grease trap having an inlet baffle 16, outlet baffle 23 and an inclined ramp shown at 21.
7. Claims 1-5 and 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by McDermott (US 1121270). McDermott '270 discloses a grease trap (fig.1-2 version) with an inlet baffle 28 with a handle 28 for removal, an outlet baffle with a handle 29, a cover 24 and a deflecting baffle (not labeled) in the center of the tank.
8. Claims 1-5, 10, 11, 14/2, 14/11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirshstein (US 2140582). H'582

discloses a grease trap separator with an inlet baffle 12, an outlet baffle 3, and a cover 10.

9. Claims 1-8, 11, 14/2, 14/11 and 15 are rejected under 35

U.S.C. 102(b) as being anticipated by Ross (US 2338971). Ross '971

discloses an inlet baffle 10 to a grease trap, with an outlet baffle 11 and a deflecting ramp 12 to guide the grease upwardly to its final destination for periodic removal via cover 3.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott '270 as applied to claim 5 above, and further in view of any one of Ross '971 or Marsh '380 or McLeod '429. The three secondary patents individually teach the use of a directional baffle to send the grease up on an angle toward the opposite upward diagonal of the grease separator to facilitate the separation of grease from the water. To so

angle the 90 degree baffle of McDermott's would have been obvious to one of ordinary skill in the art at the time of the invention.

12. Claims 18/1, 18/2, 18/17, 19 and 20 are rejected under 35

U.S.C. 103(a) as being unpatentable over McDermott '270 as applied to claims 1,2,3, and 17 above, and further in view of Weber (US 4940539).

The introduction of air into a grease trap (air entrainment means) is taught by Weber '539. Such introduction of air effects to allow bacteria present in the grease trap to biologically react with excess materials in the trap to reduce the smell and solids loading. Such a feature is desirable and it would have been obvious to one of ordinary skill in the art to modify the McDermott patent to include such a feature.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose telephone number is 703-308-0173. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blain Copenheaver can be reached on 703-308-1261. The fax phone numbers for the organization where this application

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or proceeding is assigned are 703-305-3602 for regular communications  
and 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this  
application or proceeding should be directed to the receptionist whose  
telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read 'T. M. Lithgow', with a long, sweeping horizontal line extending to the right.

Thomas M. Lithgow  
Primary Examiner  
Art Unit 1724

TML  
July 7, 2003